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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/239,948	01/29/99	YAMAZAKI	S 0756-1930

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EXAMINER

MUNSON,G

ART UNIT

PAPER NUMBER

2811

DATE MAILED: 11/30/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.

239,948

Applicant(s)

S. YAMAZAKI ET AL

Examiner

G. MUNSON

Group Art Unit

2811

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☐ Responsive to communication(s) filed on \_\_\_\_\_.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-16 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-16 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☒ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☒ received in Application No. (Series Code/Serial Number) 08/142,048.
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☒ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

Office Action Summary

Art Unit: 2811

That parent application SN 847,314 has issued as a patent needs to be inserted in the specification.

Claims 11-16 are rejected under 35 USC 112, second paragraph. In claims 11, 13 and 15, where the "regions" are located is indefinite. Compare with claims 1-10. In claim 13, acronyms such as "LDD" are ambiguous for a claim; it is suggested to use "lightly doped drain (LDD)" at the first instance, if that is the scope intended. In claims 12, 14 and 16, "not deeper 50  $\mu\text{m}$ " is unclear and appears wrong; perhaps "not deeper than 50 nm" is intended. See specification pages 19-20.

Claims 12, 14 and 16, are rejected under 35 USC 112, first paragraph. The depth of "50  $\mu\text{m}$ " disagrees with the specification pages 19-20.

Claims 1-10 are rejected as double patenting of the non-statutory type over claims of Yamazaki et al, which issued from parent application SN 847,314. These present claims, as well as patent claims, cover the embodiment of Figures 9D, 9E. Thus these present claims would be double patenting.

This double patenting rejection is based on a judicially establish doctrine grounded in public policy to "prevent unjustified timewise extension of the right to exclude granted by a patent". *In re Schneller*, 158 USPQ 210, 214-215 (CCPA 1968). Also note the public policy requirement in 37 CFR1.321 that a patent granted on this application and the Yamazaki et al. Patent be commonly owned. See MPEP 804 for a discussion of *Schneller*.

A timely filed terminal disclaimer in compliance with 37 CFR1.321(c) may be used to overcome this rejection based on a nonstatutory double patenting ground.

Art Unit: 2811

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

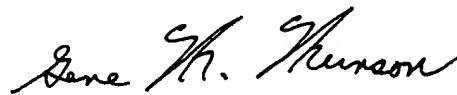
Claims 11-16 are rejected under 35 USC 103 as unpatentable over Yoshitomi et al. For a transistor as in Yoshitomi et al (Figures 1, 2), it would have been obvious to have a short channel length (column 10, lines 53-54) in order to increase integration density.

Claims 11-16 are rejected under 35 USC 103 as unpatentable over Chou et al. For a transistor as in Chou et al (Figure 6), it would have been obvious to have a channel length within the range suggested by Chou et al (column 2, lines 45-46).

Except for the Yamazaki et al patent, the other references are all of record in parent application SN 847,314.

No claim is allowed.

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EXAMINER  
GROUP ART UNIT 2811